

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

United States of America,

Case No.: 2:17-cr-00221-JAD-EJY-2

Plaintiff

V.

Kejon Ward,

## Defendant

# **Order Denying Motion to Reduce Sentence under Amendment 821**

[ECF No. 367]

Defendant Kejon Ward is serving a 94-month sentence for interference with commerce  
bbery and possession of a firearm while committing the crime. Ward moves for a two-point  
ion in his sentence based on recent changes to the sentencing guidelines, known commonly  
endment 821, which authorize the removal of the extra criminal-history points known as  
points" that were added because the defendant committed the crime of conviction while  
a criminal-justice sentence. But because the sentence that Ward received was already  
the guidelines achieved by applying these guideline changes, I find that he is not eligible  
urther sentence reduction and deny his motion.

## Discussion

The Sentencing Commission submitted criminal-history amendments to Congress in May 2023, they took effect in November 2023, and courts may apply them retroactively beginning in February 2024.<sup>1</sup> In his pro se motion, Ward argues that he is eligible for a two-point reduction to his criminal-history points under Amendment 821's provision related to status points, added to

<sup>1</sup> Sent'g Guidelines for U.S. Courts, 88 Fed. Reg. 60534, 60534 (Sept. 1, 2023).

1 the guidelines as § 4A1.1.<sup>2</sup> Status points are additional criminal-history points applied to a  
 2 defendant who committed his crime of conviction while under another criminal-justice sentence.  
 3 Because the Commission found that status points are less reliable indicators of rearrest, these  
 4 changes allow courts to depend less on status points to determine criminal history.<sup>3</sup> A defendant  
 5 with seven or more criminal-history points may receive a one-point reduction in his status points,  
 6 while a defendant with six or fewer criminal-history points may have his status points eliminated  
 7 for committing his offenses while under a criminal-justice sentence.<sup>4</sup>

8       The sentencing court may reduce a defendant's sentence based on this status-points  
 9 amendment if his "term of imprisonment [was] based on a sentencing range that has  
 10 subsequently been lowered by the Sentencing Commission [under] 28 U.S.C. § 994(o) . . . after  
 11 considering the factors set forth in section 3553(a) . . . if such a reduction is consistent with  
 12 applicable policy statements issued by the Sentencing Commission."<sup>5</sup> One such policy statement  
 13 is found in U.S.S.G. § 1B1.10(b)(2)(A), which states that "the court shall not reduce the  
 14 defendant's term of imprisonment" under this statute "to a term that is less than the minimum of  
 15 the amended guideline range. . . ."<sup>6</sup> So although the sentencing court may reduce a previously  
 16 sentenced defendant's term of imprisonment based on Amendment 821, it can't do so if the  
 17 defendant's original sentence was already below the new guideline range.

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19<sup>2</sup> ECF No. 367. Ward contends that the two-point reduction should be to his offense-level, but  
 20 because § 4A1.1 only reduces status points, I construe his argument as seeking a reduction to his  
 21 criminal-history points.

22<sup>3</sup> *Id.* at 60535–36; *see also* U.S. Sent'g Comm'n, *Revisiting Status Points* (2022),  
 23 [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/20220628\\_Status.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/20220628_Status.pdf).

24<sup>4</sup> Sent'g Guidelines for U.S. Courts, 88 Fed. Reg. 60534, 60535 (Sept. 1, 2023).

25<sup>5</sup> 18 U.S.C. § 3582(c)(2) (cleaned up).

26<sup>6</sup> USSG § 1B1.10(b)(2)(A).

1       This is exactly the problem with Ward's request. He's right that § 4A1.1 eliminates the  
 2 two criminal-history points that he acquired for committing his current offenses while under a  
 3 criminal-justice sentence. But, as the Federal Public Defender appointed to represent Ward on  
 4 this motion under this District's General Order 2023-9 tacitly acknowledges by her notice of  
 5 non-eligibility,<sup>7</sup> the sentence that Ward received was already well below the amended guideline  
 6 range based on a variance. Ward received a sentence of 34 months for the interference-with-  
 7 commerce-by-robbery count plus a mandatory consecutive statutory minimum 60 months for the  
 8 possession-of-a-firearm-during-a-crime-of-violence count,<sup>8</sup> for a total sentence of 94 months.<sup>9</sup>  
 9 That 94-month sentence was below the new guideline range achieved under Amendment 821,  
 10 which is effectively 106–117 months:

Original guideline calculation	Level 22, Criminal History Category III
Original guideline range	51–63 months (+ 60 months)
New guideline range with two-point criminal-history score reduction under § 4A1.1	46–57 months (+ 60 months)
Original sentence	34 months (+ 60 months)

17 Because any further reduction would reduce Ward's term of imprisonment to one that is less than  
 18 the minimum of the amended guideline range, I decline to award him a further sentence  
 19 reduction.

22       <sup>7</sup> ECF No. 374 at 1.

23       <sup>8</sup> 18 U.S.C. § 924(c)(A)(i)

9       <sup>9</sup> ECF No. 357.

## Conclusion

2 IT IS THEREFORE ORDERED that Kejon Ward's motion for a sentence reduction  
3 under Amendment 821 [ECF No. 367] is **DENIED** with prejudice.

U.S. District Judge Jennifer A. Dorsey